

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10CV76-MOC-DSC**

SHAD EVERETTE ELLIS,)
)
 Plaintiff,)
)
 v.)
)
 WAL-MART DISTRIBUTION, et al.,)
)
 Defendants.)
 _____)

MEMORANDUM AND ORDER

THIS MATTER is before the Court on Defendant Distribution Technology Inc.’s “Motion to Compel Plaintiff’s Attendance at His Deposition and for Sanctions” (document #13) and “Memorandum ... in Support ...” (document #14), both filed April 27, 2011. The pro se Plaintiff has not responded to the subject Motion and the time for filing a response has expired.

This Motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b)(1)(B), and is now ripe for the Court’s consideration.

For the reasons stated in its Motion and supporting brief, the Court grants Defendant’s Motion to Compel.

Moreover, dismissal and the imposition of monetary sanctions are remedies available under Rule 37 for a party’s failure to obey rules governing discovery and orders of the District Court. See Fed. R. Civ. P. 37(b)(2)(C); National Hockey League v. Metro. Hockey Club, 427 U.S. 639, 643 (1976); Mutual Fed. Sav. & Loan v. Richards & Assocs., 872 F.2d 88, 92 (4th Cir. 1989); and Wilson v. Volkswagen of America, Inc., 561 F.2d 494, 504-04 (4th Cir. 1977).

Accordingly, the Court warns Plaintiff that failure to appear for his deposition as ordered

below or failure to respond to any other of the Defendant's reasonable discovery requests, or to otherwise comply fully with any of the Court's Orders, the Local Rules, or the Rules of Civil Procedure may result in the imposition of sanctions. **Sanctions can include Plaintiff being required to pay the Defendants' costs, including reasonable attorney's fees in their entirety, and may also include dismissal of the Complaint with prejudice.**

NOW THEREFORE, IT IS ORDERED:

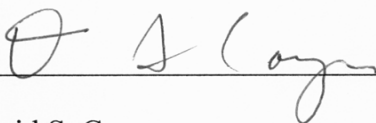
1. Defendant Distribution Technology Inc.'s "Motion to Compel Plaintiff's Attendance at His Deposition" (document #13) is **GRANTED**. Within twenty-one days of the date of this Memorandum and Order, Plaintiff shall appear for his deposition at the date, time and location noticed by Defendants.

2. The parties shall bear their own costs at this time.

3. The Clerk is directed to send copies of this Memorandum and Order to the pro se Plaintiff; to defense counsel; and to the Honorable Max O. Cogburn, Jr.

SO ORDERED.

Signed: May 17, 2011



David S. Cayer
United States Magistrate Judge

